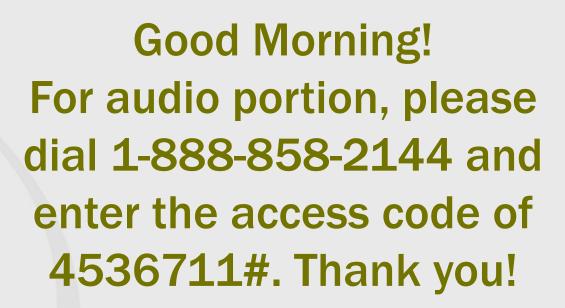


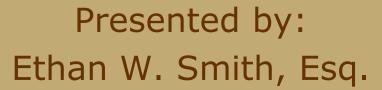
# Mistakes That Can Cost You Your Guaranty



SBA West Virginia District Office







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SBA West Virginia District Office October 27, 2015





## Instructor

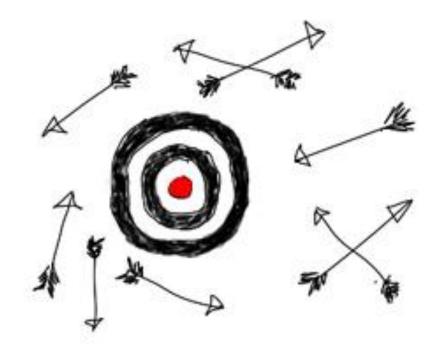
**Ethan W. Smith**Partner, Starfield & Smith, PC

Ethan W. Smith's areas of practice focus on government guaranteed lending, commercial lending, banking, real estate and commercial law. Ethan has closed thousands of government guaranteed loans nationwide.

Starfield & Smith, P.C. is a boutique law firm specializing in all aspects of SBA-guaranteed lending, from origination through liquidation, for lenders nationwide. Starfield & Smith closes between \$130 and \$150 million of SBA guaranteed loans for its lender clients every quarter. For more information about Starfield & Smith, visit www.starfieldsmith.com.

#### Closing Issues:

- Eligibility
- Improper PLP processing
- Program Integrity
- Verification of Financials
- Environmental
- ☐ Use of Proceeds
- Debt Refinance
- Collateral
- Insurance
- □ 912 Issues
- Equity Documentation



#### Lien and Collateral Issues that Result in Missed Recoveries (Generally a Repair)

- Failure to obtain required lien position
- Failure to properly perfect security interest
- Failure to fully collateralize loan at origination when additional collateral was available



#### ■ Unauthorized Use of Proceeds

- Proceeds disbursed for purpose(s) inconsistent with the loan authorization or subsequent modifications without a business justification. (Could be a Denial if early default and improper use of proceeds caused the failure of the business)
- Same lender Non-SBA loan paid with PLP loan proceeds (preference)



## □ Early Defaults (Denial if determined to be reason for business failure)

- Missing or unsupported verification of required equity injection (includes verification of source in some cases)
- Missing or unsupported documentation of verification of borrower financial information with IRS when financial information was relied on in lender's credit analysis



#### □ SBA Loan Eligibility (Denial)

- Ineligible franchise
- Ineligible loan purpose
- Ineligible loan recipient (loan to an associate of lender)
- Underwriting



#### Questions





#### Thanks!

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Or visit our office web site at: <a href="https://www.sba.gov/wv">www.sba.gov/wv</a>